W.P.NO.13487 OF 1994

Per G.S. Singhvi, CJ

This petition is directed against communication dated 20th May 1994 vide which Assistant City Planner, Circle-I, Municipal Corporation of Hyderabad (for short 'Corporation') rejected the petitioner's application for grant of permission for construction of compound wall in relation to property bearing No.22-2-798/1 at Bazar Noorul Umra on the ground that the proposed compound wall towards road side falls on the land of the Andhra Pradesh Housing Board.

Learned counsel for the petitioner relied on order dated 17.11.1989 passed in Writ Petition No.5931 of 1986 and submitted that in view of the finding recorded by the learned Single Judge that the petitioner had not encroached on the property of the Housing Board, her application for permission to construct the compound wall could not have been rejected by assuming that the same falls on the Housing Board land. Learned counsel also referred to the deed of sale (Annexure-L) dated 14th April, 1941 to show that the property in question is in the ownership of the petitioner and submitted that the Assistant City Planner could not have turned down her application by assuming that the land belongs to the Housing Board.

Learned Standing Counsel for Municipal Corporation submits that despite opportunity having been given to the petitioner to produce evidence showing her ownership in respect of the disputed land, she did not produce any document. He emphatically stated that the document marked (Annexure-L) was not produced by the petitioner along with the application or even thereafter.

In the context of the last mentioned statement of the learned counsel for the Corporation, learned counsel for the petitioner submitted that the Court may grant liberty to his client to file fresh application for grant of permission to raise construction.

In my opinion, even though the present petition cannot be treated as properly constituted because Andhra Pradesh Housing Board has not been impleaded as party and even the description of the competent authority, namely, Municipal

Corporation of Hyderabad is not proper, I feel that it will be in the interest of justice to give liberty to the petitioner to file fresh application for grant of permission to raise construction.

In view of the above, the writ petition is disposed of with the direction that if the petitioner makes fresh application and produces the evidence in support of her ownership of the disputed piece of land, the competent authority of the Municipal Corporation shall consider and decide the same in accordance with law within a period of two months. If the concerned authority comes to the conclusion that the petitioner is not entitled to permission for raising construction, then it shall record reasons for doing so, which shall be communicated to the petitioner at the end of two months' period.

December 23, 2005 G.S. SINGHVI, CJ

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